

## REMARKS

Claims 1-9 are pending in this application. By this Amendment, claims 1, 6, and 7 have been amended to address informalities raised by the Examiner, and to more particularly point out and distinctly claim composition I. Claim 2 has been amended to conform with claim 1. Entry and consideration of these amendments are earnestly requested in that they do not introduce new matter.

Applicants wish to point out that there is a typographical error in the Office Action, since it indicates that claims 1-10 are pending.

### *Claim Rejections*

#### Rejections Under 35 U.S.C. §112

##### A. Response to rejection of claims 1-9 under 35 U.S.C. 112, second paragraph.

In response to the rejection of claims 1-9 under 35 U.S.C. 112, second paragraph, Applicant has replaced the term “comprising” with the term “having,” in claims 1, 6, and 7, as suggested by the Examiner. Reconsideration and withdrawal of the Rejection respectfully is requested.

#### Rejections Under 35 U.S.C. § 103

##### B. Response to rejection of claims 1-3 and 6 under 35 U.S.C. §103(a) as being unpatentable over Karaoglu.

In response to the rejection of claims 1-3, and 6 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,492, 010 of Karaoglu et al. (“Karaoglu”), Applicant respectfully submits that a *prima facie* case of Obviousness has not been made out, and traverses the Rejection.

The U.S. Supreme Court in *Graham v. John Deere Co.*, 148 U.S.P.Q. 459 (1966) held that non-obviousness was determined under §103 by (1) determining the scope and content of the prior art; (2) ascertaining the differences between the prior art and the claims at issue; (3) resolving the level of ordinary skill in the art; and, (4) inquiring as to any objective evidence of non-obviousness. Accordingly, for the Examiner to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the

references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. See MPEP §2143. Finally, all claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. (BNA) 580 (C.C.P.A. 1974).

In one embodiment of the present subject matter, claim 1 is directed to a stretchable wrap film having a value of MD tear resistance; a value of TD tear resistance; a value of MD tensile strength at 30%; and a polymer blend,

the polymer blend comprising (percent by weight):

I) 50 to 90% of an ethylene polymer composition having a density ranging from 0.920 to 0.94 g/ml, the ethylene polymer composition being selected from the group consisting of

- an interpolymer of ethylene with at least one comonomer selected from the group consisting of (1) ethylenically unsaturated organic monomer of esters of unsaturated C<sub>3</sub>-C<sub>20</sub> monocarboxylic acids and C<sub>1</sub> to C<sub>24</sub> monovalent aliphatic or alicyclic alcohols, wherein the ester content ranges from 2.5 to 8 wt % based on the total weight of the ethylene polymer composition (I) and
- a blend comprising:

(a) a low density ethylene homopolymer (LDPE) having a melt flow rate ranging from 0.1 to 20 g/10 min and a density value of 0.915-0.932 g/ml;

(b) an interpolymer of ethylene with at least one ester in an amount of at least 2.5 wt%, the at least one ester being selected from the group consisting of unsaturated C<sub>3</sub>-C<sub>20</sub> monocarboxylic acids and C<sub>1</sub> to C<sub>24</sub> monovalent aliphatic or alicyclic alcohols, and vinyl esters of saturated C<sub>2</sub>-C<sub>18</sub> carboxylic acids; and

(c) an ester content of the blend (a) + (b) from 2 to 8 wt%; and

II) 10 to 50% of an ethylene-based polymer component having a density ranging from 0.9 to 0.930 g/mL and a melt flow rate up to 4 g/10 min, the ethylene-based polymer component being selected from the group consisting of

- ii) a linear polyethylene consisting of ethylene and 0.5 to 20% by mole of a first  $\text{CH}_2=\text{CHR}$   $\alpha$ -olefin, where R is a hydrocarbon radical having 2-8 carbon atoms and
- ii) a polymer blend comprising (a) 80-100 parts by weight of a random polymer of ethylene with at least one second  $\text{CH}_2=\text{CHR}$   $\alpha$ -olefin, where R is a hydrocarbon radical having 1-10 carbon atoms, the random polymer (a) containing up to 20 mol% of the second  $\text{CH}_2=\text{CHR}$   $\alpha$ -olefin and having a density between 0.88 and 0.945 g/mL; and (b) from 5 to 30 parts by weight of a random interpolymer of propylene with at least one third  $\text{CH}_2=\text{CHR}$   $\alpha$ -olefin, and optionally ethylene, where R is a hydrocarbon radical having from 2 to 10 carbon atoms, said random interpolymer (b) containing from 60 to 98% by weight of units derived from propylene, from 2 to 40% by weight of recurring units derived from the third  $\text{CH}_2=\text{CHR}$   $\alpha$ -olefin, and from 0 to 10% by weight of recurring units derived from ethylene, and having a xylene-insoluble fraction at room temperature greater than 70%;

wherein the stretchable wrap film has a ratio between the value of MD tear resistance and the value of TD tear resistance over 0.3 and the value of MD tensile strength at 30% ranges between 6.5 to 15 N.

Component I therefore includes either:

- (a) an ethylene interpolymer having an ester content in the range from 2.5 to 8 wt%; or
- (b) a blend of a low density ethylene homopolymer with an interpolymer of ethylene with at least one ester in an amount of at least 2.5 wt%, where the blend has an ester content of from 2 to 8 wt%.

The Examiner relies upon Karouglu's component IT11 as disclosing the claimed ethylene interpolymer in claimed component I. However, the Examiner certainly cannot contend that Karouglu's component IT11 discloses the claimed ester content of the ethylene interpolymer where it is not part of a blend with a low density ethylene homopolymer, i.e., "(a)" above, since component IT11 contains 27 wt% methyl acrylate (col. 9, line 66). Indeed, Karouglu's disclosure discloses that its ethylene/methyl acrylate copolymer is present in an amount from 10

to 30 percent by weight (col. 3, lines 24-25, and lines 49-50). Therefore, the Examiner could only contend that the claimed ester content is disclosed as part of a blend of the claimed ethylene interpolymer with a low density ethylene homopolymer, i.e., “(b)” above. In this regard, the Examiner relies upon the composition containing IT8, IT11, IT3 and IT4, components present in Karouglul’s film outer layers, as support for the rejection. In particular, in response to Applicants’ comments in the previous Response, the Examiner contended that IT3 is a low density ethylene homopolymer (page 19, line 22), however, this is not correct. As the Examiner himself acknowledges, IT3 is an mLLDPE (page 4, line 3). However, Karouglu clearly discloses that for its metallocene catalyzed linear low density polyethylenes (mLLDPE) “[s]uitable products within the required parameters include octene copolymers.” (col. 4, lines 55-56, emphasis added). Moreover, the other components in Karouglu’s film outer layer compositions are also not a low density ethylene homopolymer: IT4 is an ethylene-octene-1 copolymer (col. 9, line 25), and IT8 is a ethylene plastomer (col. 9, line 47). Therefore, Karouglu does not teach, suggest or disclose either an ethylene interpolymer having the claimed ester content, or any blend containing an ethylene interpolymer and a low density ethylene homopolymer at all, much less a blend having an ester content of from 2 to 8 wt%. Furthermore, there is clearly no teaching, suggestion or disclosure of films or containers made from the claimed compositions having the claimed MD tear resistance and TD tear resistance values, since there is no teaching, suggestion or disclosure of the underlying composition.

The same comments apply to the other independent claims and their dependent claims.

C. Response to rejection of claims 1-3 and 6 under 35 U.S.C. §103(a) as being unpatentable over Cooper.

In response to the rejection of claims 1-3 and 6 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,504,434 of Cooper (“Cooper”), Applicant respectfully submits that a *prima facie* case of Obviousness has not been made out, and traverses the rejection.

The threshold showing required under §103 has been discussed above.

The Examiner has acknowledged that Cooper: (1) is silent as to density of the ethylene polymer composition having an ester content (I) ranging from 0.92 to 0.94 g/ml; (2) is silent as

to the ethylene-based polymer component (II) having melt flow rate up to 4 g/10 min.; (3) is silent as to the MD tear resistance, the TD tear resistance and the MD tensile strength of the stretch wrap film; and (4) does not explicitly disclose the specific 0.5 to 20 mol% of alpha-olefin in the linear polyethylene (IIi). Nevertheless, the Examiner has argued that the instant claims are obvious over Cooper, by contending that Cooper's compositions are "substantially identical" to the compositions in the claimed films, and that the alpha-olefin content of the linear polyethylene compound IIi is a results-effective variable.

In addition to the above acknowledged deficiencies of Cooper, the current claims recite that component I is an interpolmer of ethylene with at least one comonomer selected from the group consisting of (1) ethylenically unsaturated organic monomer of esters of unsaturated C<sub>3</sub>-C<sub>20</sub> monocarboxylic acids and C<sub>1</sub> to C<sub>24</sub> monovalent aliphatic or alicyclic alcohols, wherein the ester content ranges from 2.5 to 8 wt % based on the total weight of the ethylene polymer composition (I). Cooper's copolymer of ethylene and vinyl acetate does not teach, suggest or disclose such a material, and substantial differences do in fact exist between Cooper's copolymer of ethylene and vinyl acetate and the claimed ethylene interpolmer. Reconsideration and withdrawal of the Rejection respectfully is requested.

D. Response to rejection of claims 4 and 5 under 35 U.S.C. §103(a) as being unpatentable over Karaoglu in view of Cometto et al.

In response to the rejection of claims 4 and 5 under 35 U.S.C. 103(a) as being unpatentable over Karaoglu in view of International Publication No. WO 9520009 of Cometto et al. ("Cometto"), Applicant respectfully submits that a *prima facie* case of Obviousness has not been made out, and traverses the Rejection.

The threshold showing required under §103 has been discussed above.

As discussed above in paragraph B, there is no teaching, suggestion or disclosure in Karaoglu of blending the claimed ethylene interpolmer with a low density ethylene homopolymer having a density value of 0.915 to 0.932 g/ml, or the claimed film properties. Cometto does not remedy the deficiencies of Karaoglu. In addition, claims 4 and 5 recite a haze less than 16%, while Cometto's examples demonstrate haze values between 29 and 49%. In this way, Cometto actually teaches away from current claims 4 and 5.

Reconsideration and withdrawal of the rejection respectfully is requested.

E. Response to rejection of claims 4 and 5 under 35 U.S.C. §103(a) as being unpatentable over Cooper in view of Cometto.

In response to the rejection of claims 4 and 5 under 35 U.S.C. 103(a) as being unpatentable over Cooper in view of Cometto, Applicant respectfully submits that a *prima facie* case of Obviousness has not been made out, and traverses the Rejection.

The threshold showing required under §103 has been discussed above.

As discussed above, Cooper does not teach, suggest or disclose all the limitations in the current claims. Cometto does not remedy the deficiencies of Cooper. In addition, claims 4 and 5 recite a haze less than 16%, while Cometto's examples demonstrate haze values between 29 and 49%. In this way, Cometto teaches away from current claims 4 and 5.

Reconsideration and withdrawal of the rejection respectfully is requested.

F. Response to rejection of claim 7 under 35 U.S.C. §103(a) as being unpatentable over Karaoglu.

In response to the rejection of claim 7 under 35 U.S.C. 103(a) as being unpatentable over Karaoglu, Applicant respectfully submits that a *prima facie* case of Obviousness has not been made out, and traverses the Rejection.

The threshold showing required under §103 has been discussed above.

As discussed above in paragraph B, Karaoglu does not teach, suggest or disclose component I of the claimed film having an ester content from 2.5 to 8 wt%.

Reconsideration and withdrawal of the rejection respectfully is requested.

G. Response to rejection of claims 8 and 9 under 35 U.S.C. §103(a) as being unpatentable over Karaoglu in view of Cometto.

In response to the rejection of claims 8 and 9 under 35 U.S.C. 103(a) as being unpatentable over Karaoglu in view of Cometto, Applicant respectfully submits that a *prima facie* case of Obviousness has not been made out, and traverses the Rejection.

The threshold showing required under §103 has been discussed above.

As discussed above in paragraph B, Karaoglu does not teach, suggest or disclose component I of the claimed film having an ester content of 2.5 to 8 wt%.

Reconsideration and withdrawal of the rejection respectfully is requested.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case. Should the Examiner have questions or comments regarding this application or this Amendment, Applicant's attorney would welcome the opportunity to discuss the case with the Examiner.

The Commissioner is hereby authorized to charge U.S. PTO Deposit Account 08-2336 in the amount of any fee required for consideration of this Amendment.

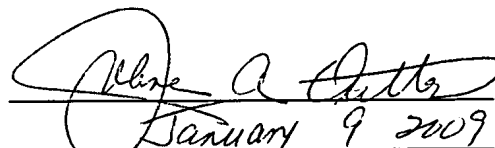
This is intended to be a complete response to the Office Action mailed July 9, 2008.

Respectfully submitted,



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I hereby certify that this correspondence is being deposited with sufficient postage thereon with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on January 9, 2009.

  
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